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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TERRANCE MONTAGUE,
Plaintiff

v.

ROBERT W. MEYERS, et al.,
Defendants

No. 1:CV-00-0895

(Magistrate Judge Smyser)

FILED
HARRISBURG, PA

JAN 16 2002

MARY E. D'ANDREA CLERK
Deputy Clerk

DEFENDANTS' MOTION FOR LEAVE TO FILE
A MEMORANDUM IN OPPOSITION TO
PLAINTIFF'S WRIT OF HABEAS CORPUS AD
TESTIFICANDUM NUNC PRO TUNC

Defendants, by their counsel, hereby request leave to file their memorandum in opposition to plaintiff's writ of habeas corpus ad testificandum nunc pro tunc and states the following in support thereof:

1. Plaintiff in this case is Terrance Montague, an inmate currently incarcerated at the State Correctional Institution at Rockview ("SCI-Rockview"). Plaintiff claims that he has been subjected to cruel and unusual punishment while incarcerated at SCI-Rockview because he has been exposed to environmental tobacco smoke.

2. Defendants are several present and former employees of the Pennsylvania Department of Corrections.

3. Pursuant to this Court's November 20, 2001 Order, defendants were permitted to file objections to plaintiff's writ of habeas corpus ad testificandum one week after plaintiff's motion was filed.

4. Unfortunately, undersigned counsel did not realize until today that the Court's Scheduling Order directed that objections to the writ should be filed within one week from the filing of the writ for habeas corpus ad testificandum. Inadvertently, counsel for the defendants noted that the objections were due to be filed on January 18, 2002.

5. In order to avoid any further delay or inconvenience, defendants' memorandum in opposition to the writ has been filed simultaneously with this motion.

6. Accordingly, defendants request that this Court grant them leave to file their objections to the writ nunc pro tunc on January 16, 2002 as timely.

7. Undersigned counsel apologizes for any delay or inconvenience caused by her oversight.

WHEREFORE, defendants request this Court to grant their motion to file their memorandum in opposition to plaintiff's writ of habeas corpus ad testificandum nunc pro tunc.

Respectfully submitted,

D. MICHAEL FISHER
Attorney General

By:



MARYANNE M. LEWIS
Deputy Attorney General

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section

Office of Attorney General
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Harrisburg, Pa 17120
(717) 787-9719
DATE: January 16, 2002

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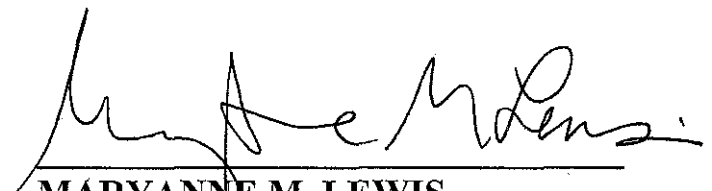
No. 1:CV-00-0895

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CERTIFICATE OF SERVICE

I, **Maryanne M. Lewis**, Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, hereby certify that on this date, I caused to be served a true and correct copy of the foregoing document **Defendants' Motion for Leave to File a Memorandum in Opposition to Plaintiff's Petition for Writ of Habeas Corpus Ad Testificandum Nunc Pro Tunc**, by depositing a cop of the same in the United States mail, first-class postage prepaid to the following:

Terrance Montague, BZ-2761
SCI-Rockview
Box A
Bellefonte, PA 16823-0820



MARYANNE M. LEWIS
Deputy Attorney General

DATE: January 16, 2002